

Sealed By Order Of Court

1

1 UNI TED STATES DI STRI CT COURT
2 EASTERN DI STRI CT OF NEW YORK

3 - - - - - X
4 UNI TED STATES OF AMERI CA, : 14-CR-609
5 v. : U. S. Courthouse
6 JOSE HAWI LLA, Traff i c SPORTS Brooklyn, New York
7 USA, I NC. , and Traff i c SPORTS
8 INTERNATIONAL, I NC., :
9 Defendants. : December 12, 2014
10 : 10: 15 o' cl ock a. m.
11 - - - - - X
12

13 TRANSCRI PT OF PLEA
14 BEFORE THE HONORABLE RAYMOND J. DEARIE
15 SENIOR UNITED STATES DI STRI CT JUDGE
16

17 APPEARANCES:

18 For the Government: LORETTA E. LYNCH
19 Uni ted States Attorney
20 By: EVAN NORRIS
AMANDA HECTOR
SAM NI TZ
BRI AN MORRIS
21 Assistant U. S. Attorneys
22 225 Cadman Plaza East
Brookl yn, New York 11201
23

24 For the Defendant: STEPHEN E. KAUFMAN, ESQ.
LEWI S J. LI MAN, ESQ.
ANDREW KAUFMAN, ESQ.
KATE CURRI E, ESQ.
25

Court Reporter: Anthony M. Mancuso
225 Cadman Plaza East
Brookl yn, New York 11201
(718) 613-2419

Proceedi ngs recorded by mechani cal stenography, transcript
produced by CAT.

Sealed By Order Of Court

2

1 THE CLERK: Can I ask the Portuguese interpreter to
2 come here.

3 We are on this morning for an arraignment and a
4 plea. This is USA versus John Doe, docket number CR 14-609.
5 And I have my Portuguese interpreter with us this morning,
6 Mr. Theodore Fink.

7 Mr. Fink, I'm going to ask you to raise your right
8 hand.

9 (Interpreter sworn.)

10 THE CLERK: Thank you.

11 I ask the attorneys to the note their appearances
12 for the record, beginning with counsel for the government.

13 MR. NORRIS: For the government, Evan Norris, Amanda
14 Hector, Sam Nitze and Brian Morris. Good morning again, your
15 Honor.

16 THE COURT: Good morning.

17 THE CLERK: Excuse me. Can I ask the interpreter to
18 stand next to your client.

19 Sir, you could stand right here, the attorney.

20 MR. LIMAN: Your Honor, for the defense Lewis Li man
21 and Kate Currie from the law firm of Cleary Gottlieb and
22 Steven Kaufman and Andrew Kaufman from the Law Offices of
23 Steven E. Kaufman, PC.

24 THE COURT: Good morning, everyone.

25 A couple of preliminary notes. This is now a sealed

Sealed By Order Of Court

3

1 proceeding by order of the court. Any reproduction,
2 transcript, digital material or otherwise is to be sealed with
3 the understanding that counsel and only counsel will be
4 provided with a suitable copy thereof.

5 I emphasize to our interpreter this is a sealed
6 proceeding. The public has been excluded on application by
7 the government granted moments ago by this court. Nothing
8 that goes on here is to be repeated outside the courtroom.

9 With that I think we can now identify the defendant
10 by name, Mr. Hawilla. How do you pronounce your name, sir?

11 THE DEFENDANT: Jose Hawilla.

12 THE COURT: Mr. Hawilla, good morning.

13 THE DEFENDANT: Good morning.

14 THE COURT: I understand, based on the materials
15 presented to me, that there's a disposition in the case
16 arrived at, I take it, consistent with these papers?

17 MR. NORRIS: That's correct, your Honor.

18 THE COURT: Ms. Mulqueen, swear the defendant.

19 THE CLERK: Certainly, your Honor.

20 (Defendant sworn.)

21 THE COURT: Mr. Hawilla, I have to ask you some
22 questions, as I'm sure counsel has told you. If there's
23 anything that I ask that is not entirely clear, make sure you
24 tell me that. We are in no hurry here. If you wish at any
25 time to confer with counsel, simply let me know that and I

Sealed By Order Of Court

4

1 will give you whatever time you need to speak privately with
2 your lawyer

3 Do you understand, sir?

4 THE DEFENDANT: Okay.

5 THE COURT: You are now under oath. That means of
6 course that your answers to my questions must be truthful. If
7 they were not in any material way you could subject yourself
8 to further charges for the offense of perjury, which is lying
9 under oath.

10 Do you understand, sir?

11 THE DEFENDANT: I do.

12 THE COURT: Again, at any time if you need time to
13 confer with counsel, let me know.

14 I begin by asking you state your full name for us
15 again.

16 THE DEFENDANT: Jose Hawilla.

17 THE COURT: Mr. Hawilla, how old are you.

18 THE DEFENDANT: 71.

19 THE COURT: And what schooling or formal education
20 have you had?

21 THE DEFENDANT: I'm a bachelor of law. I'm a
22 lawyer.

23 THE COURT: Okay. Do you speak any English?

24 THE DEFENDANT: I understand a little, but I don't
25 speak.

Sealed By Order Of Court

5

1 THE COURT: If at any time you have difficulty
2 understanding the interpreter, let me know immediately.

3 THE DEFENDANT: Okay.

4 THE COURT: Tell me about your health, generally.
5 How is your health?

6 THE DEFENDANT: I had some health problems. During
7 the course of this investigation I had -- prior to this I had
8 a lung problem which got worse here which became an illness
9 called pulmonary hypertension.

10 I had a cancer underneath my tongue, which was
11 treated with radiotherapy and chemotherapy for some months. I
12 did six sessions of chemotherapy and 33 of radiotherapy. And
13 now I finished and I'm in recuperation. The doctors say that
14 I'm free of the illness. But I have to do follow-up, which I
15 am doing twice a month, and I'm doing tests at the same time
16 that I am doing treatment for my lung. I take medication. I
17 do physiotherapy one hour a day and I sleep with an oxygen
18 apparatus.

19 Apart from that, when I finish that I have to do --
20 I have to put a stent in one of my coronary arteries. Those
21 are my problems. And I take several medications a day.

22 THE COURT: Well, that's certainly enough for one
23 man.

24 The medication, are you able to concentrate?

25 THE DEFENDANT: What do you mean concentrate?

Sealed By Order Of Court

6

1 THE COURT: Are you able to concentrate on the
2 proceedings today?

3 THE DEFENDANT: Yes, of course.

4 THE COURT: Are you reasonably comfortable?

5 THE DEFENDANT: Yes.

6 THE COURT: Gentlemen, in your discussions with your
7 client, have you ever had difficulty communicating with him,
8 obviously, through the services of an interpreter?

9 THE DEFENDANT: No.

10 THE COURT: I address the same question to counsel.
11 Have you had any difficulties communicating with your client.

12 MR. S. KAUFMAN: None, your Honor.

13 MR. LIMAN: No, your Honor.

14 THE COURT: All right.

15 THE COURT: Mr. Hawilla, the first order of business
16 this morning is what we commonly refer to as a waiver of
17 indictment. The charges to which you are apparently prepared
18 to plead guilty are all a felony violations of law because
19 each carries with it a potential sentence in excess of one
20 year. Under our constitution the United States Attorney has
21 no power to charge you or anyone with any felony violation of
22 law. Only a grand jury, composed of members of our community,
23 are empowered to decide whether or not an individual is to be
24 charged with a felony, unless, of course, you waive your right
25 to proceed before the grand jury. It's my impression, based

Sealed By Order Of Court

7

1 upon documents that I have reviewed, that it is your intention
2 to waive indictment, waive grand jury indictment I should say.

3 Before you do that, I have to tell you what an a
4 grand jury is and I am no doubt repeating what your attorneys
5 have told you. So bear with me for a few minutes.

6 The grand jury is a group of people drawn randomly
7 from our community. No more than 23 persons constitute a
8 grand jury. There must be 16 grand jurors present to hear
9 evidence and 12 grand jurors must agree that there is probable
10 cause to believe that you have committed an offense before
11 that grand jury is, pursuant to law, authorized to charge you
12 with any felony. The grand jury doesn't decide whether you
13 are guilty or not guilty but only whether you could be
14 charged. You have the right to have this matter referred to a
15 grand jury for that purpose and, if you exercise that right,
16 we could not proceed against you unless and until the grand
17 jury decided that charges should be filed. If you waive that
18 right, the government is then permitted, by way of
19 information, to charge you with felony violation of law.

20 Now, let me ask you, sir: Have you discussed your
21 right to proceed before the grand jury with your attorney?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you feel you understand it?

24 THE DEFENDANT: Yes.

25 THE COURT: And is it your intention to waive your

Sealed By Order Of Court

8

1 right to proceed before the grand jury?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, before I accept your waiver,
4 please, understand that if the grand jury decided that
5 probable cause had not been established, the government would
6 be powerless to charge you with any felony violation of law.
7 They could present it to another grand jury. They could
8 re-present it to the same grand jury. But absent an
9 indictment by a grand jury on the finding of probable cause
10 they would be powerless to charge you.

11 Do you understand?

12 Knowing that, do you waive your rights to proceed
13 before the grand jury?

14 THE DEFENDANT: Yes.

15 THE COURT: Gentlemen, any reservation at all
16 concerning the defendant's understanding and his willingness
17 to waive indictment?

18 MR. LIMAN: No, your Honor.

19 THE COURT: The court finds that the defendant has,
20 in the presence of counsel and with the advice of counsel and
21 upon inquiry of the court, knowingly and voluntarily waived
22 his rights to proceed before the grand jury and I will endorse
23 the waiver form accordingly:

24 Now, Mr. Hawilla, we now proceed just as if the
25 grand jury had charged you with these violations. Having said

Sealed By Order Of Court

9

1 that, you have an absolute right to plead not guilty to these
2 charges.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: In common parlance, you have an a right
6 to call it all off.

7 Do you understand?

8 THE DEFENDANT: Yes.

9 THE COURT: If you were to plead not guilty under
10 our constitution and laws you would be entitled to a speedy
11 and public trial by jury, with the assistance, of course, of
12 counsel .

13 At trial you would be presumed innocent of the
14 charges. The government would have to overcome or try to
15 overcome this presumption of innocence and prove you guilty by
16 competent evidence and beyond a reasonable doubt. You, sir,
17 would not be required to prove anything. There would be no
18 burden whatsoever on you to advance any proof whatsoever. You
19 could sit back, do nothing, say nothing, simply put the
20 government to its burden of attempting to satisfy the jury of
21 your guilt.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: That means, of course, if the jury were
25 to find you not guilty, that would conclude these proceedings

Sealed By Order Of Court

10

1 and the government would be powerless to continue with these
2 charges.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Now, in the course of the trial
6 witnesses for the government obviously would come to court,
7 testify under oath in your presence and in the presence of
8 your attorneys. You would have the right, therefore, to
9 confront each of these witnesses face to face here in the
10 courtroom.

11 You would have the right to counsel to cross-examine
12 each of the government's witnesses and when appropriate to
13 object to evidence offered by the government. You would have
14 the right to offer evidence in your own defense, although I
15 emphasize you would not be obligated to do so. And you would
16 have the right to compel the presence of witnesses through the
17 issue of a court order or subpoena, requiring witnesses to
18 come to this courtroom and give testimony in your defense.

19 Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: All right.

22 Mr. Hawilla, you also have a right to remain silent.
23 No one can make you testify, not your lawyers, the government
24 lawyers or the court. And the decision whether or not to
25 testify is your own to make, not counsel's. You would make it

Sealed By Order Of Court

11

1 obviously with the advice of counsel. But it is ultimately
2 your decision, just as a decision to plead guilty, your
3 personal decision.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: All right.

7 Now, if you plead guilty, and I accept your plea,
8 you give up all those rights forever. There will be no trial,
9 with the possible exception of appeal, which I will cover in a
10 few minutes. There is no right to an appeal. I will simply
11 enter a judgment of guilty based on your plea of guilty, based
12 on what you tell me.

13 Do you follow?

14 THE DEFENDANT: Yes.

15 THE COURT: And before I can actually accept your
16 plea I'm required, under the federal rules, to satisfy myself
17 that you are guilty of these offenses. To do that, in a few
18 minutes I'll ask you some questions. In responding to my
19 questions you give up your right to remain silent quite
20 obviously. You give up your right not to incriminate yourself
21 and you'll be called upon here in open court -- I qualify open
22 court -- in a sealed courtroom proceeding, nonetheless, to
23 acknowledge your guilt.

24 Do you understand that?

25 THE DEFENDANT: Yes.

Sealed By Order Of Court

12

1 THE COURT: Are you willing then to give up your
2 right to a trial and these other rights I've just explained?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you have any questions about anything
5 we've covered so far?

6 THE DEFENDANT: No.

7 THE COURT: I have a copy of an agreement which
8 we'll mark.

9 THE CLERK: We'll mark this as Court Exhibit A.

10 THE COURT: Okay.

11 MR. NORRIS: Your Honor, I'm handing up the
12 original. I think your Honor had a copy from yesterday.

13 THE COURT: This is Court Exhibit A, a document,
14 23-page document, typewritten document, that reflects 21
15 numbered paragraphs and purports to set out the terms of an
16 agreement you have arrived at through counsel, with the United
17 States government.

18 Are you familiar with this document?

19 THE DEFENDANT: Yes.

20 THE COURT: Let me ask you this: Have you read it
21 carefully?

22 THE DEFENDANT: Yes.

23 THE COURT: You understand, Mr. Hawilla, that this
24 is a very important document in terms of your life and future
25 at this time?

Sealed By Order Of Court

13

1 Is that fair to say?

2 THE DEFENDANT: Yes.

3 THE COURT: And did you read it with that degree of
4 care?

5 THE DEFENDANT: Yes.

6 THE COURT: Has counsel answered any questions you
7 might have had regarding the document?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you have any questions that you would
10 like to put to the court about this document at this time?

11 THE DEFENDANT: No.

12 THE COURT: As far as you know, sir, is your
13 agreement with the government fully and accurately reflected
14 in this document?

15 THE DEFENDANT: Yes.

16 THE COURT: Are there any other understandings,
17 agreements, that have contributed to your decision to offer
18 pleas of guilty that are not reflect in Court Exhibit A?

19 THE DEFENDANT: No.

20 THE COURT: Counsel, can you confirm that?

21 MR. S. KAUFMAN: Yes, your Honor. That is
22 confirmed.

23 MR. NORRIS: Yes, your Honor. I can confirm that
24 for the government.

25 THE COURT: All right. We'll come back to that in

Sealed By Order Of Court

14

1 just a moment. With counsel's permission, I'll waive the
2 formal reading of the charges.

3 MR. LIMAN: That's fine, your Honor.

4 THE COURT: The information reflects three specific
5 charges.

6 MR. NORRIS: Your Honor, if I may, it has four
7 counts.

8 THE COURT: I'm sorry.

9 MR. NORRIS: Four counts.

10 THE COURT: I beg your pardon.

11 I'm looking at the charging language itself. If you
12 wear bear with me, I'm going to read limited portions of the
13 document. On page 52, beginning with paragraph 121: The
14 allegations contained in paragraphs 1 through 120 are
15 realleged and incorporated as if fully set forth in this
16 paragraph.

17 In or about and between January 1991 and the
18 present, both dates being approximate and inclusive, within
19 the Eastern District of New York and elsewhere, the defendant
20 Jose Hawilla, together with others, being a person employed by
21 and associated with the enterprise, which engaged in, and the
22 acts of which affect, interstate and foreign commerce, did
23 knowingly and intentionally conspire to violate Title 18,
24 United States Code, Section 1962 (c), that is, to conduct and
25 participate, directly and indirectly, in the conduct of the

Sealed By Order Of Court

15

1 affairs of such enterprise through a pattern of racketeering
2 activity, as defined in Title 18, United States Code, Sections
3 1961 (1) (5).

4 Paragraph 123: The pattern of the racketeering
5 activity through which the defendant Jose Hawilla, together
6 with others, agreed to conduct and part, directly and
7 indirectly, in the conduct of the affairs of the enterprise
8 consisted of multiple acts indictable under:

9 Title 18, United States Code, Section 1343;

10

11 Title 18 United States Code, Section 1956;

12

13 Title 18 United States Code Section 1952;

14

15 Title 18 United States Code, Section 1512;
16 and multiple acts involving bribery, in violation of New York
17 State Penal Law sections 180.03 and 180.08. Hawilla agreed
18 that a conspirator would commit at least two acts of
19 racketeering activity --

20 THE CLERK: I'm sorry, Judge Dearie. The
21 interpreter needs time.

22 THE COURT: Where are you?

23 THE INTERPRETER: I've got to law Section 18.03 and
24 180.08.

25 THE COURT: You are ahead of me.

Sealed By Order Of Court

16

1 MR. LI MAN: He has not read the last sentence of
2 count one.

3 THE COURT: It seems to me the appropriate way of
4 doing this, given counsel's familiarity with these charges,
5 and the text of them, is to simply let the interpreter read
6 the paragraphs to the defendant. I'm sure he's equally
7 familiar with them. But for the sake of the record, we need
8 to at least present the charging language.

9 Is there any objection to that?

10 MR. LI MAN: No, your Honor.

11 MR. NORRIS: No, your Honor.

12 THE COURT: 123, 125, 127 and 129.

13 (Interpreter reading to the defendant.)

14 THE COURT: All right. That's 129 you have just
15 completed?

16 MR. S. KAUFMAN: Yes, your Honor.

17 THE COURT: For the record, the interpreter has just
18 read aloud in the presence of the defendant the charging
19 paragraphs of the four counts, including 122 through and
20 including 129.

21 Addressing the interpreter: Have I stated that
22 accurately?

23 THE INTERPRETER: Yes, your Honor.

24 THE COURT: Thank you.

25 Mr. Hawilla, I understand you have discussed these

Sealed By Order Of Court

17

1 charges with your lawyers. Just for the record, confirm for
2 me that you have?

3 Have you discussed these charges with your
4 attorneys?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you have a full understanding as to
7 what you are charged within each of these four counts?

8 THE DEFENDANT: Yes.

9 THE COURT: Any questions that you would like to put
10 to me about the charges?

11 THE DEFENDANT: No.

12 THE COURT: Okay. Well I have a couple for you.

13 Three of the counts charge the offense of
14 conspiracy. What is your understanding, sir, of the nature of
15 conspiracy?

16 THE DEFENDANT: It's different from my
17 understanding. From what I understood here, conspiracy is you
18 agree with one or more other persons, transaction, bank
19 transaction, for example.

20 THE COURT: That's somehow a violation of law?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. You get an A minus on that one.
23 It's an agreement, pure and simple, with at least one other
24 person, as you have noted, to do something that violates the
25 law. As a general rule, it doesn't matter whether that

Sealed By Order Of Court

18

1 something is ever done. The essence of the charges is the
2 agreement itself.

3 Do you understand that?

4 THE DEFENDANT: Yes, I do understand.

5 Can I say something to my attorney?

6 THE COURT: Sure. Take your time, step back.

7 If you need room, we can put you somewhere else.

8 THE DEFENDANT: No. Thank you.

9 (Defendant confers with counsel.)

10 THE COURT: I left the bench to make sure you had
11 plenty of time to discuss matters with counsel. I'm pleased
12 that you availed yourself of that opportunity. Don't be
13 reluctant to do it again, should the circumstances warrant.

14 I think we had asked, just to repeat, that you
15 discussed the charges, you feel you understand the charges and
16 you now have a firm understanding of the nature of the
17 conspiracy?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, let me turn my attention back to
20 your agreement and discuss important information relative to
21 sentencing.

22 Now this comes to two or three, depending upon how
23 you look at it, chapters, if you will. The first being the
24 statutory penalty that the Congress of the United States has
25 written into the law with respect to each of the four charges

Sealed By Order Of Court

19

1 and this information you are no doubt aware is reflected in
2 paragraph one of your agreement with the government.

3 Are you familiar with that information, sir?

4 THE DEFENDANT: Yes.

5 THE COURT: Those are the penalties that you face.
6 Just by way of example, with respect to charge one, the
7 statutory penalty involves a maximum of 20 years in prison.
8 In effect, that's the worst that can happen with respect to
9 count one. And if sentenced to a period of incarceration you
10 face an a period of supervised release. Supervised release
11 is, as the term suggests, an a period of supervision that
12 begins to run the moment you are released from custody. If
13 you were to violate the terms or conditions of your supervised
14 release at any time during the period of supervision you could
15 be returned to prison under the terms of my sentence in this
16 case for up to two years without any credit being given to you
17 for the time you spent at liberty under supervision.

18 Do you understand that, sir?

19 THE DEFENDANT: Yes.

20 THE COURT: With respect to each of the counts, you
21 face a fine. Relative to count one, the maximum fine is the
22 greater of \$250,000 or by statute twice the gross profits of
23 the enterprise, which no doubt would be a sizable sum I
24 suppose.

25 Is that likely to be in play here?

Sealed By Order Of Court

20

1 MR. NORRIS: Yes, your Honor.

2 THE COURT: Restitution is required, mandatory, in
3 an amount to be determined by the court with the assistance of
4 counsel. Each count carries with it a special assessment of
5 \$100. And I also note for the record that you have consented
6 to a forfeiture as is laid out in paragraphs eight through
7 fifteen of this agreement. And the remaining counts carry
8 with it the same sort of the penalty or potential penalty and
9 a you should understand by law I could impose these sentences
10 consecutively.

11 Do you understand that, sir?

12 THE DEFENDANT: Yes.

13 THE COURT: Those are the statutory penalties.

14 Now, chapter two in our sentencing discussion
15 involves what's commonly called the sentencing guidelines.
16 These guidelines are advisory. But I am required to calculate
17 the sentencing guidelines range as the first step in
18 determining a reasonable sentence.

19 Have you discussed the guidelines with your counsel?

20 THE DEFENDANT: Yes.

21 THE COURT: The guidelines take into consideration
22 the offense, of course, your role in it, any aggravating or
23 mitigating circumstances and essentially upon calculation
24 provide a range of months in which it is suggested that I find
25 a sentence to impose upon you. As I say, they are not

Sealed By Order Of Court

21

1 mandatory. I am required to consider them, therefore, I am
2 required to calculate them.

3 And I won't be in a position, Mr. Hawilla, to
4 calculate them with any certainty in this case until after I
5 have received the probation department's presentence report.
6 You will see that report before I do, as will counsel, of
7 course. You'll be given an opportunity to voice objection,
8 comments as the case may be. Eventually, the report will come
9 to me, as will counsel's submissions. With their assistance I
10 will then compute the sentencing guidelines range and arrive
11 at a range consistent with my understanding of the facts and
12 my application of the sentencing guidelines. We may all
13 agree. There may be disagreement. I can't tell you today
14 where we'll end up. All I can tell you is that I have to
15 calculate them and consider the advisory range before
16 concluding my sentencing judgment.

17 And that gets us to the critical chapter three in
18 the sentencing discussion. What the law requires,
19 Mr. Hawilla, is that I consider any number of factors in, of
20 course, the guidelines, various statutory factors that I must
21 consider, common to all cases or most cases, any other
22 information that's brought to my attention that speaks to the
23 question of sentence and the appropriateness of sentence,
24 brought to my attention by your counsel, by government counsel
25 any related applications, anything at all that speaks to me

Sealed By Order Of Court

22

1 about the wisdom of an appropriate sentence.

2 And then I am required by law to impose what the law
3 would call a reasonable sentence. If you think I have imposed
4 an unreasonable sentence, that is, goes beyond what I have
5 calculated as the guidelines sentencing range, you have the
6 right to appeal to a higher court that sentence.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Now, I condition your right of appeal on
10 the imposition of a sentence above the guidelines range and I
11 do that because of paragraph three of your agreement. It
12 reads as follows: The defendant agrees not to file an appeal,
13 or otherwise challenge, by petition pursuant to 28 USC 2255 or
14 any other provision, the conviction or sentence in the event
15 that the court imposes a term of imprisonment within or below
16 the applicable guidelines range determined by the court at
17 sentencing.

18 Mr. Hawilla, the way I read that -- just my
19 interpretation -- no matter what I do in calculating the
20 sentence, including possible miscalculation, error, in fact or
21 law, whatever I calculate marks the boundaries of your right
22 to appeal. All right. Because it goes on to say: This
23 waiver is binding without regard to the sentencing analysis
24 used by the court.

25 So, in a way it's a sort of leap of fate that I will

Sealed By Order Of Court

23

1 calculate the sentencing guidelines range in an accurate and
2 reasonable manner. Because you'll have no right of appeal,
3 the way I read the provision, as long as I stay within that
4 advisory range or below.

5 Do you understand?

6 THE DEFENDANT: Yes.

7 THE COURT: Any questions?

8 THE DEFENDANT: No.

9 THE COURT: All right.

10 A couple of other things here that I want to touch
11 on.

12 Now, obviously, this is a very detailed agreement.
13 I would like to turn my attention briefly to paragraph seven.
14 This is a sort of a curious paragraph now in the post-Booker
15 days. I'm not quite sure how to explain it, but I will do my
16 best.

17 This paragraph addresses the possibility that at or
18 before the time of sentence the government will make an
19 application to the court pursuant to Section 5K1.1 of the
20 guidelines, presenting to the court what the government
21 believes is substantial assistance rendered by you to law
22 enforcement.

23 I just want you to know that if that application is
24 made, it doesn't require me to do anything. It simply
25 authorizes me to sentence you, from the government's

Sealed By Order Of Court

24

1 perspective, at any point at or below the guidelines range.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: So you may satisfy the government, but
5 it may not satisfy the court if you get what I am saying.

6 Do you follow?

7 THE DEFENDANT: Yes.

8 THE COURT: I don't know how else to say it because
9 in the post-Booker era, there's no mandatory minimum. It's I
10 guess best left the way it is, unless counsel think otherwise.

11 And then finally there is a provision in paragraph
12 nine regarding the payment of a sizable sum of money. I don't
13 know if it's part of the agreement. Can you educate me on
14 that?

15 MR. NORRIS: On the forfeiture provision?

16 THE COURT: The forfeiture provision I understand.
17 There's a schedule of payments here.

18 MR. NORRIS: Yes.

19 THE COURT: That's toward the forfeiture?

20 MR. NORRIS: Yes. I'm happy to go through it, your
21 Honor.

22 THE COURT: No. I just wanted to confirm that
23 that's what we're talking about.

24 There's a lot in here that I have not touched on.
25 Is there anything that counsel wishes me to address in the

Sealed By Order Of Court

25

1 agreement?

2 There being no response --

3 MR. NORRIS: One other thing, your Honor, is in
4 paragraph 19 it discusses the immigration consequences.

5 THE COURT: Thank you.

6 MR. NORRIS: Of the plea.

7 THE COURT: I take it Mr. Hawilla is not an American
8 citizen.

9 MR. LIMAN: That's correct, your Honor.

10 THE COURT: Mr. Hawilla, there are other
11 consequences to your plea and eventual conviction, that is,
12 your removal from the United States. I'm not telling you that
13 it's inevitable. I don't know that it is. It may well be.
14 But the likely consequence of your conviction here is that you
15 will be removed from the United States.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Thank you for bringing that to my
19 attention.

20 Are you ready to plead, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: What is your plea to count one of the
23 information?

24 THE DEFENDANT: Guilty.

25 THE COURT: And count 2?

Sealed By Order Of Court

26

1 THE DEFENDANT: Guilty.

2 THE COURT: And count three?

3 THE DEFENDANT: Guilty.

4 THE COURT: And, finally, count four?

5 THE DEFENDANT: Guilty.

6 THE COURT: Are you making these pleas voluntarily
7 and of your own free will?

8 THE DEFENDANT: Yes.

9 THE COURT: Has anybody threatened or forced you in
10 any way to plead guilty?

11 THE DEFENDANT: No.

12 THE COURT: Are there any agreements or
13 understandings that I have not been told about today that have
14 contributed to your decision to plead guilty?

15 THE DEFENDANT: No.

16 THE COURT: Has anyone given you any assurance as to
17 what I will do on sentence?

18 THE DEFENDANT: No.

19 THE COURT: All right.

20 Mr. Hawilla, you've assured me that you have
21 thoroughly reviewed the charges with counsel relating to the
22 three conspiracies and the obstruction of justice count.

23 Tell me what you did, sir.

24 MR. LIMAN: Your Honor, our client has prepared a
25 statement, if he could read that.

Sealed By Order Of Court

27

1 THE COURT: By all means.

2 THE INTERPRETER: Should I just translate that or
3 just read the English?

4 THE COURT: I would like to hear him read it and you
5 translate it.

6 THE INTERPRETER: Okay.

7 THE DEFENDANT: My name is Jose Hawilla.

8 Since approximately 1980 I started to develop a
9 project of sports marketing through my company Traffic. I
10 bought the rights to football events and started promoting
11 them in a legitimate way throughout the world.

12 Approximately in 1991 when I went to renew a
13 contract to one of these events, the Copa America, an official
14 associated with FIFA, the agency which is in charge of world
15 soccer and its federation CONMEBOL, he demanded from me a
16 bribe for him to sign the contract. I needed that contract
17 because I had already assumed future engagements --
18 commitments and even though I didn't want to I agreed to pay
19 the bribe to that official.

20 After this and until 2013, other soccer officials
21 came to me and those with whom I associated in business to
22 demand bribes to sign or renew contracts. I agreed that
23 undisclosed bribe payments would be made to those soccer
24 officials for contracts for the marketing rights to various
25 tournaments and other rights associated with soccer.

Sealed By Order Of Court

28

1 I agreed to make bribe and kickback payments which
2 would be undisclosed for contracts for the Copa America, the
3 Gold Cup, the Copa de Brasil and the [REDACTED] sponsorship for the
4 Brazilian National Team.

5 I used U.S. financial institutions and wire
6 facilities of the United States to make some of these bribe
7 and kickback payments, as well as to make legitimate payments
8 relating to these rights, all of which promoted these schemes.

9 MR. NORRIS: Let's pause for one second. I'm not
10 sure the court reporter heard the sponsorship you referred to
11 as the [REDACTED], correct?

12 THE INTERPRETER: Correct.

13 THE COURT: Did you say [REDACTED]?

14 THE DEFENDANT: Yes.

15 THE COURT: Go ahead.

16 THE DEFENDANT: During this period FIFA, CONCACAF
17 and other relate soccer organizations and sports marketing
18 companies were engaged in promoting and/or regulating the
19 sport of soccer worldwide as part of an ongoing organization.
20 Among other things, these organizations held sports-related
21 events and conducted business in the United States and used
22 financial institutions based in the United States.

23 With respect to counts two and three, I knowingly
24 and willfully agreed with members of the two other similar
25 companies that had made commitments to pay bribes in

Sealed By Order Of Court

29

1 connection with the Copa America that Traffic would contribute
2 to these bribe payments. The undisclosed bribes were paid to
3 officials who held positions of authority and trust within
4 FIFA and two of its confederations CONCACAF and CONMEBOL, to
5 secure marketing rights related to the Copa America
6 Tournament. I agreed to use and did use Traffic's account at
7 a bank in the United States and the wire facilities of the
8 United States to reimburse a portion of the expense paid by
9 the other sports marketing organizations by transferring money
10 to financial institutions in other countries. The transfers
11 were made by banks in New York.

12 Finally, in connection with count four, before my
13 arrest, when I was told by someone that the FBI was asking
14 about bribes paid by Traffic, I asked him not to mention my
15 name or the name of Traffic to the FBI. Also, after my
16 arrest, when I was questioned by the government in Brooklyn in
17 connection with its grand jury investigation, I withheld
18 information from it including about ongoing criminal activity
19 that were relevant to its investigation. [REDACTED]

20 [REDACTED]
21 [REDACTED] In doing so, I impeded
22 intentionally the grand jury investigation.
23

24 I knew that this conduct was wrong. I repent very
25 much and apologize for what I did.

Sealed By Order Of Court

30

1 THE COURT: All right. With respect to the money
2 laundering, I'm not quite sure I heard specific reference to
3 the laundering aspect of the scheme. Did I miss something?
4 Have you reviewed this allocation?

5 MR. NORRIS: I have, your Honor. And I believe the
6 laundering is covered by the intentional transfers of money
7 intended to promote the scheme.

8 THE COURT: As if to be legitimate?

9 MR. NORRIS: No. This is under the international
10 money laundering prong of the statute. So it's simply
11 transfers to promote the scheme that were transferred from
12 within the United States outside of the United States. That's
13 sufficient I believe.

14 THE COURT: All right.

15 Is everyone satisfied with the allocation?

16 MR. NORRIS: Just a couple of very quick things,
17 your Honor. If I could put on the record and just ask that
18 the defendant agrees the enterprise that the defendant
19 described -- the enterprise that the defendant described in
20 connection with count one -- the activities of that enterprise
21 certainly affect both interstate and foreign commerce.

22 THE COURT: As is apparent from the allocation. I
23 do have one question before I make my finding.

24
25 Mr. Hawilla, could you very briefly just describe

Sealed By Order Of Court

31

1 for me the nature of your legitimate business and how you
2 derive income from it?

3 THE DEFENDANT: A sports marketing company promotes
4 football -- soccer events, championships, tournaments and
5 events. We bought the rights from the confederations and we
6 commercialized them in the whole world. There are several
7 sources of income. The main ones are television rights and
8 sponsorship rights.

9 THE COURT: Okay. I got it. Sort of what I
10 assumed.

11 Based on the information given to me, I find that
12 the defendant is acting voluntarily and fully understands his
13 rights, the consequences and possible consequences of his
14 plea, and that there are factual bases for these pleas of
15 guilty. I therefore, now, formally accept the pleas of guilty
16 to counts one, two, three and four of the information bearing
17 docket number 14-CR-609.

18 Mr. Hawilla, I urge you to cooperate at the
19 appropriate time with the probation department in their
20 preparation of the presentence report, consistent of course
21 with the advice of counsel. At the government's request,
22 absent objection from the defense, we will set a control date
23 some six months down the road.

24 MR. NORRIS: That would be perfect, your Honor.
25 Thank you.

Sealed By Order Of Court

32

1 THE CLERK: June 26 at 10:00 a.m. for a control
2 date.

3 THE COURT: Obviously, any circumstances change,
4 please, inform the court. If anything changes that may in any
5 way impact this court's decision to seal these proceedings,
6 inform the court immediately. Understood?

7 MR. NORRIS: Yes, your Honor.

8 THE COURT: Anything else?

9 MR. NORRIS: Just a few matters. If I could just
10 put them on the record, your Honor?

11 THE COURT: Please.

12 MR. NORRIS: One: The defendant in his agreement
13 has waived venue with respect to counts two and three.

14 THE COURT: Let me deal with that.

15 do you understand what the assistant has just said?
16 If an offense is committed in a certain place, another
17 district, if you will, you have the right to have that offense
18 heard in that district. You can consent to a change of venue
19 and have it heard in whatever district you consent to have it
20 heard in. Contained in that agreement is a waiver of any
21 venue rights you may have with respect to counts two and three

22 Is that your understanding, Mr. Hawilla?

23 THE DEFENDANT: Yes.

24 THE COURT: And you so consent?

25 THE DEFENDANT: Yes.

Sealed By Order Of Court

33

1 THE COURT: And you've conferred with counsel
2 regarding this?

3 THE DEFENDANT: Yes.

4 MR. NORRIS: A few other things, your Honor.

5 First, I don't believe your Honor asked whether the
6 defendant was satisfied with counsel. If you could just put
7 that on the record, please.

8 THE COURT: My oversight.

9 are you satisfied with your attorneys up until this
10 point?

11 THE DEFENDANT: Yes.

12 MR. NORRIS: If your Honor could also confirm that
13 the defendant authorized the waiver of his appearance at the
14 public proceeding?

15

16 THE COURT: Earlier, before you entered the
17 courtroom I heard an application --

18 Mr. Hawilla is distracted.

19 (Pause.)

20 MR. S. KAUFMAN: Can we have a moment, your Honor?

21 THE DEFENDANT: Okay. Yes.

22 THE COURT: Earlier, before you entered the
23 courtroom, Mr. Hawilla, I heard an application by the
24 government, without opposition from your counsel, to seal this
25 courtroom. Ordinarily proceedings in this courtroom are

Sealed By Order Of Court

34

1 public, available to anyone. The government on your behalf
2 and on its behalf made an application to the court to seal
3 this proceeding and to close the courtroom. I granted that
4 application.

5 My question to you is: Were you aware that I would
6 be asked to do so and do you consent to it?

7 THE DEFENDANT: Yes.

8 MR. NORRIS: The last two things, your Honor: We
9 just want to note for the record that because this is a sealed
10 proceeding, and not a public proceeding, no victim
11 notification has been required under the Under Justice For All
12 Act.

13 THE COURT: So noted.

14 MR. NORRIS: Last --

15 THE COURT: Required at this time?

16 MR. NORRIS: Absolutely.

17 We will certainly comply with our obligations once
18 the case is public.

19 And with respect to bail, we would just ask that the
20 defendant's bail conditions be continued and I would just note
21 specifically in terms of the location where he resides, we
22 previously applied to a magistrate court to allow the
23 defendant to reside [REDACTED]

24 [REDACTED]

25 [REDACTED]

Sealed By Order Of Court

35

1
2
3 THE COURT: If the health continues, under the same
4 conditions.

5 MR. NORRIS: Lastly, if we could hand up to the
6 court an order of forfeiture.

7 THE COURT: I take it it's a preliminary order of
8 forfeiture.

9 MR. NORRIS: Yes, your Honor. And we have provided
10 that to counsel and counsel has reviewed it.

11 THE COURT: Mr. Li man, you have reviewed this order?

12 MR. LI MAN: We have, your Honor.

13 THE COURT: Consistent with the terms of the
14 agreement?

15 MR. LI MAN: It is and we agree to it.

16 THE COURT: Okay. Signed, sealed and delivered.
17 Anything else?

18 MR. NORRIS: Nothing else from the government.

19 MR. LI MAN: Nothing, your Honor thank you, your
20 Honor.

21 THE COURT: Thank you for your time, Mr. Haw illa.
22 Take care of yourself. We'll see you next time.

23 THE DEFENDANT: Thank you.

24 oooooooooooo
25